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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 MARGARET MEEHAN, ) NO. SACV 11-01310 (SS)  
12 )  
13 Plaintiff, )  
14 )  
15 v. ) **MEMORANDUM DECISION AND ORDER**  
16 )  
17 MICHAEL J. ASTRUE, )  
18 Commissioner of the Social )  
19 Security Administration, )  
20 )  
21 Defendant. )  
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18 **I.**

19 **INTRODUCTION**

20  
21 Margaret Meehan ("Plaintiff") brings this action seeking to reverse  
22 the decision of the Commissioner of the Social Security Administration  
23 (the "Commissioner" or the "Agency") denying her application for  
24 Disability Insurance Benefits ("DIB") and Supplemental Security Income  
25 ("SSI") benefits. The parties consented, pursuant to 28 U.S.C. §  
26 636(c), to the jurisdiction of the undersigned United States Magistrate  
27 Judge. For the reasons stated below, the decision of the Agency is  
28 REVERSED and REMANDED for further proceedings.

**II.****PROCEDURAL HISTORY**

Asserting that she became disabled on June 1, 2007, Plaintiff filed an application for Title II DIB on October 3, 2008 and an application for Title XVI SSI on November 4, 2008. (Administrative Record ("AR") 139-144). The Agency denied Plaintiff's initial applications on March 3, 2009 and on reconsideration on August 6, 2009. (AR 69, 79). Plaintiff then requested a hearing, which was held before Administrative Law Judge Helen E. Heese (the "ALJ") on November 15, 2010. (AR 16). Plaintiff appeared with counsel and testified at the hearing. (AR 41). A vocational expert and a non-examining medical expert also testified at the hearing. (AR 58-60, 49-52). On December 3, 2010, the ALJ issued a decision denying benefits. (AR 13-24). Plaintiff sought review before the Appeals Council, (AR 11), which denied Plaintiff's request on July 25, 2011. (AR 1-3). On September 2, 2011, Plaintiff filed the instant action.

**III.****THE FIVE-STEP SEQUENTIAL EVALUATION PROCESS**

To qualify for disability benefits, a claimant must demonstrate a medically determinable physical or mental impairment that not only prevents engagement in substantial gainful activity, defined by 20 C.F.R. § 416.910 as for-profit work involving significant and productive physical or mental duties, but that is expected to either last for a continuous period of at least twelve months or result in death. See

1 Reddick v. Chater, 157 F.3d 715, 721 (9th Cir. 1998) (citing 42 U.S.C.  
2 § 423(d)(1)(A)); see also Tackett v. Apfel, 180 F.3d 1094, 1098 (9th  
3 Cir. 1999) (citing 42 U.S.C. § 423(d)(2)(A)) (noting that the impairment  
4 must render the claimant incapable of performing his previously  
5 performed work or "any other substantial gainful employment that exists  
6 in the national economy."). Unless those two requirements are met, a  
7 claimant is not disabled within the meaning of the Social Security Act.  
8 Tackett, 180 F.3d at 1098.

9  
10 To decide if a claimant is entitled to benefits, an ALJ conducts  
11 a five-step inquiry. 20 C.F.R. § 416.920. The steps are:

- 12  
13 (1) Is the claimant presently engaged in substantial gainful  
14 activity? If so, the claimant is found not disabled.  
15 If not, proceed to step two.
- 16 (2) Is the claimant's impairment severe? If not, the  
17 claimant is found not disabled. If so, proceed to step  
18 three.
- 19 (3) Does the claimant's impairment meet or equal the  
20 requirements of any impairment listed at 20 C.F.R. Part  
21 404, Subpart P, Appendix 1? If so, the claimant is  
22 found disabled. If not, proceed to step four.
- 23 (4) Is the claimant capable of performing his past work? If  
24 so, the claimant is found not disabled. If not, proceed  
25 to step five.
- 26 (5) Is the claimant able to do any other work? If not, the  
27 claimant is found disabled. If so, the claimant is  
28 found not disabled.

1 Tackett, 180 F.3d at 1098-99; see also Bustamante v. Massanari, 262 F.3d  
2 949, 953-54 (9th Cir. 2001); 20 C.F.R. § 416.920(b)-(g)(1).

3  
4 The claimant has the burden of proof at steps one through four, and  
5 the Commissioner has the burden of proof at step five. Bustamante, 262  
6 F.3d at 953-54. If, at step four, the claimant meets his burden of  
7 establishing an inability to perform the past work, the Commissioner  
8 must show that the claimant can perform some other work that exists in  
9 "significant numbers" in the national economy, taking into account the  
10 claimant's residual functional capacity ("RFC"),<sup>1</sup> age, education and  
11 work experience. Tackett, 180 F.3d at 1100; 20 C.F.R. § 416.920(g)(1).  
12 The Commissioner may do so by the testimony of a vocational expert or  
13 by reference to the Medical-Vocational Guidelines appearing in 20 C.F.R.  
14 Part 404, Subpart P, Appendix 2 (commonly known as "the Grids").  
15 Osenbrock v. Apfel, 240 F.3d 1157, 1162 (9th Cir. 2001). When a  
16 claimant has both exertional (strength-related) and nonexertional  
17 limitations, the Grids are inapplicable and the ALJ must take the  
18 testimony of a vocational expert. Moore v. Apfel, 216 F.3d 864, 869  
19 (9th Cir. 2000).

#### 20 21 IV.

#### 22 THE ALJ'S DECISION

23  
24 The ALJ employed the five-step sequential evaluation process and  
25 concluded, at step one, that Plaintiff had not engaged in substantial  
26 gainful employment since June 1, 2007. (AR 18). At step two, the ALJ

27 <sup>1</sup> Residual functional capacity is "the most [one] can still do  
28 despite [his] limitations" and represents an assessment "based on all  
the relevant evidence." 20 C.F.R. § 416.945(a).

1 found that Plaintiff had severe impairments of fibromyalgia and  
2 degenerative disc disease of the lumbar spine. (Id.). The ALJ  
3 explained that Plaintiff's conditions of fibromyalgia and degenerative  
4 disc disease "have caused [Plaintiff] more than minimal limitations in  
5 her ability to perform work related activity and are therefore severe  
6 as defined by Social Security Regulations." (Id.). The ALJ determined  
7 that Plaintiff's "mental impairment of depression . . . does not cause  
8 more than minimal limitation in her ability to perform basic mental work  
9 activities and is therefore nonsevere." (Id.).  
10

11 At step three, the ALJ found that Plaintiff did not "have an  
12 impairment or combination of impairments that meets or medically equals  
13 one of the listed impairments in 20 C.F.R. Part 404, Subpart P, Appendix  
14 1." (AR 20). At step four, the ALJ determined that Plaintiff "has the  
15 residual functional capacity to perform light work as defined in 20 CFR  
16 404.1567(b) and 416.967(b) except that she must be able to change  
17 positions briefly throughout the day, for 1-3 minutes per hour." (AR  
18 20). The ALJ found that Plaintiff is capable of performing her past  
19 relevant work as a loan officer. (AR 24). The ALJ reasoned that  
20 Plaintiff had the RFC to perform light work with restrictions and that  
21 Plaintiff's past work as a loan officer "does not require the  
22 performance of work-related activities precluded by the claimant's  
23 [RFC]." Accordingly, the ALJ did not proceed to step five and instead  
24 found that Plaintiff was not under a disability within the meaning of  
25 the Social Security Act. (AR 16, 24).  
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## V.

## STANDARD OF REVIEW

Under 42 U.S.C. § 405(g), a district court may review the Commissioner's decision to deny benefits. The court may set aside the Commissioner's decision when the ALJ's findings are based on legal error or are not supported by substantial evidence in the record as a whole. Aukland v. Massanari, 257 F.3d 1033, 1035 (9th Cir. 2001); Smolen v. Chater, 80 F.3d 1273, 1279 (9th Cir. 1996).

"Substantial evidence is more than a scintilla, but less than a preponderance." Reddick, 157 F.3d at 720. It is "relevant evidence which a reasonable person might accept as adequate to support a conclusion." Id. To determine whether substantial evidence supports a finding, the court must "'consider the record as a whole, weighing both evidence that supports and evidence that detracts from the [Commissioner's] conclusion.'" Aukland, 257 F.3d at 1035 (quoting Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir. 1993)). If the evidence can reasonably support either affirming or reversing that conclusion, the court may not substitute its judgment for that of the Commissioner. Reddick, 157 F.3d at 720-21.

## VI.

## DISCUSSION

Plaintiff contends that the ALJ erred for two reasons: (1) the ALJ did not provide specific and convincing reasons for rejecting Plaintiff's credibility and subjective complaints, (Memorandum in

1 Support of Plaintiff's Complaint ("Complaint Memo.") at 6); and (2) the  
2 ALJ failed to give specific and legitimate reasons for rejecting the  
3 opinion of Plaintiff's treating physician. (Id.).

4  
5 The Court agrees with Plaintiff's two grounds for remand. For the  
6 reasons discussed below, the Court finds that the ALJ's decision should  
7 be reversed and this action remanded for further proceedings.

8  
9 **A. The ALJ Failed To Provide Clear And Convincing Reasons For**  
10 **Rejecting Plaintiff's Subjective Complaints**

11  
12 Plaintiff's first claim is that the ALJ erred by failing to  
13 articulate clear and convincing reasons for rejecting her subjective  
14 complaints. (Complaint Memo. at 6). Specifically, Plaintiff contends  
15 that the ALJ erred in demanding objective evidence regarding Plaintiff's  
16 subjective symptoms of pain and fatigue arising from fibromyalgia.  
17 (Complaint Memo. at 8). Plaintiff argues that the ALJ improperly  
18 discounted the treating physician's evaluation of Plaintiff because it  
19 was "based largely on Plaintiff's subjective complaints." (Plaintiff's  
20 Reply to Memorandum in Support of Defendant's Answer ("Reply") at 3).  
21 For the reasons discussed below, the Court agrees with Plaintiff's  
22 contentions.

23  
24 The Court notes that an ALJ may reject a plaintiff's testimony upon  
25 an explicit credibility finding that is "supported by a specific, cogent  
26 reason for the disbelief." Rashad v. Sullivan, 903 F.2d 1229, 1231 (9th  
27 Cir. 1990) (internal citations omitted). Unless there is affirmative  
28 evidence showing that the plaintiff is malingering, the ALJ's reasons

1 for rejecting the plaintiff's testimony must be "clear and convincing."  
2 Lester v. Chater, 81 F.3d 821, 834 (9th Cir. 1995).

3  
4 The record provides no affirmative evidence showing that Plaintiff  
5 was malingering. Instead, the record suggests that Plaintiff was  
6 truthful. Dr. Sami Nafsoosi, a non-examining medical expert, testified  
7 before the ALJ that he found no indication, based on either Plaintiff's  
8 testimony or medical records, that Plaintiff was a malingerer. (AR 57).  
9 Similarly, the State's examining psychiatrist, Dr. Romualdo Rodriguez,  
10 concluded that Plaintiff appeared genuine and truthful during  
11 examination. (AR 343-44). Given the absence of affirmative evidence  
12 that Plaintiff was malingering, the ALJ was required to provide clear  
13 and convincing reasons for rejecting Plaintiff's testimony. No such  
14 reasons were provided.

15  
16 The ALJ explained that objective medical evidence did not support  
17 Plaintiff's allegations of work-related limitations. (AR 22). The ALJ  
18 reached this conclusion by relying on examinations performed by the  
19 State's examining physician, Dr. Payam Moazzaz, and Plaintiff's  
20 rheumatologist, Dr. Javid Ahmed. (AR 21-22). Upon examining Plaintiff,  
21 Dr. Moazzaz concluded that she had a normal gait and full, pain-free  
22 range of motion in the neck, elbow, forearm, wrists, fingers, knees,  
23 ankles, and feet. (AR 276-77). Dr. Moazzaz further concluded that  
24 Plaintiff could not only lift and carry 50 pounds occasionally and 25  
25 pounds frequently but also sit, stand and walk six hours out of an eight  
26 hour workday. (AR 279). Dr. Ahmed's examination similarly revealed  
27 that Plaintiff had "normal range of motion of all joints [and] no  
28 synovitis or effusion [on all joints]." (AR 22, 327).



1        These findings, however, are not inconsistent with Plaintiff's  
2 complaint of fibromyalgia and do not amount to a clear and convincing  
3 reason for rejecting Plaintiff's substantive pain complaints. The Ninth  
4 Circuit has recognized that objective findings "do not establish the  
5 presence or absence of fibromyalgia." Jordan v. Northrop Grumman Corp.  
6 Welfare Plan, 370 F.3d 869, 872 (9th Cir. 2004) (overruled on other  
7 grounds by Abatie v. Alta Health & Life Ins. Co., 458 F.3d 955, 963 (9th  
8 Cir. 2006)). As stated in Jordan:

9  
10        [F]ibromyalgia's cause or causes are unknown, there is no  
11 cure, and, of greatest importance to disability law, its  
12 symptoms are entirely subjective. There are no laboratory  
13 tests for the presence or severity of fibromyalgia.

14  
15 Id.; see also Green-Young v. Barnhart, 335 F.3d 99, 108-09 (2d Cir.  
16 2003) (explaining that physical examinations for fibrositis patients  
17 will usually yield normal results-a full range of motion, no joint  
18 swelling, normal muscle strength and neurological reactions).

19  
20        Here, Plaintiff provides ample evidence that she suffers from  
21 fibromyalgia. Dr. Ahmed diagnosed Plaintiff with fibromyalgia  
22 associated with irritable bowel syndrome, hypothyroidism, osteoarthritis  
23 of the first CMC joint and depression. (AR 327-28). He explained that  
24 Plaintiff had "multiple tissue tender and trigger points and tenderness  
25 in the right first CMC joint", (Id.), and concluded that Plaintiff's  
26 condition satisfied the American College of Rheumatology criteria for  
27 fibromyalgia. (AR 308). Further, Plaintiff's complaint of disabling  
28

1 pain, extreme fatigue and disturbed sleep are consistent with the  
2 symptoms of fibromyalgia. See Sarchet v. Chater, 78 F.3d 305, 306 (7th  
3 Cir. 1996) (observing that the principle symptoms of fibromyalgia are  
4 "pain all over," fatigue, disturbed sleep, and multiple tender spots).  
5 Nearly two years of medical records obtained from Plaintiff's treating  
6 physician, Dr. Daniel Strub, show that Plaintiff suffered from  
7 persistent joint pain and fatigue. (AR 329, 378, 381, 384, 389, 399,  
8 402, 407).

9  
10 The Ninth Circuit has recognized that objective findings are not  
11 dispositive with respect to whether a person does or does not suffer  
12 from fibroyalgia. Jordan, 370 F.3d at 872 (9th Cir. 2004). Thus, the  
13 ALJ erred in rejecting Plaintiff's subjective symptoms as inconsistent  
14 with the objective medical evidence. See Bunnell v. Sullivan, 947 F.2d  
15 341, 346-47 (9th Cir. 1991).

16  
17 Further, because Plaintiff's subjective statements of depression  
18 were consistent with her medical records, the ALJ erred in rejecting  
19 Plaintiff's assertion that she suffered from depression. The ALJ  
20 reasoned that Plaintiff "did not allege any depression symptoms in her  
21 application of benefits, only recently sought formal treatment for this  
22 disorder, and [provided] no indication that her symptoms . . . will  
23 persist for one year." (AR 22). Although Plaintiff did not mention any  
24 depression symptoms in her initial application, the disability report  
25 filed with Plaintiff's appeal lists depression as one reason for seeking  
26 treatment from Dr. Strub. (AR 185-86). Moreover, Dr. Strub  
27 consistently noted that Plaintiff's symptoms were consistent with  
28

1 depression. (AR 22, 282, 329, 364, 367, 370, 375, 378, 381, 384, 389,  
2 399, 402, 407). On several occasions, Dr. Strub noted that Plaintiff's  
3 depression was progressing and referred Plaintiff to a psychiatrist, (AR  
4 387, 404), who noted that Plaintiff presented with "at least a 3 year  
5 history of mood swings and depression, exacerbated by difficulty with  
6 fibromyalgia." (AR 410). That psychiatrist, Dr. Samuel Dey, further  
7 noted that Plaintiff had at least a three-year history of depression and  
8 had been taking Celexa, an antidepressant, for eight years. (AR 410).  
9 Dr. Dey advised Plaintiff continue taking Celexa and consider  
10 psychotherapy. (AR 410-11). The ALJ failed to provide a clear and  
11 convincing basis for rejecting Plaintiff's testimony that she was  
12 depressed.

13  
14 The ALJ also failed to offer a clear and convincing basis for  
15 denying Plaintiff's claim that daily headaches contributed to her  
16 alleged disability. Although Dr. Strub's treatment notes report "no  
17 history of headaches", (AR 22, 282, 329, 364, 367, 370, 375, 378, 381,  
18 384, 389, 399, 402, 407), Dr. Ahmed's notes indicate that Plaintiff  
19 suffered from "headaches once or twice a week." (AR 326). This single  
20 inconsistency is not a sufficiently clear and convincing reason to  
21 reject Plaintiff's claim.

22  
23 The ALJ failed to provide clear and convincing reasons, supported  
24 by the record, to reject Plaintiff's testimony. Accordingly, remand is  
25 required and full credit must be given to Plaintiff's testimony.

26 \\  
27 \\  
28

1 **B. The ALJ Failed To Provide Specific And Legitimate Reason To Reject**  
2 **The Treating Physician's Opinions**

3  
4 Plaintiff's second claim is that the ALJ failed to properly  
5 consider the opinions of her treating physician, Dr. Strub. (Complaint  
6 Memo. at 10). Specifically, Plaintiff argues that the ALJ improperly  
7 relied on the opinions of "one-time examining physicians hired by the  
8 Social Security Administration," namely, Dr. Moazzaz, D. Rodriguez, and  
9 Dr. Nafosi. (Id.). Plaintiff also argues that the ALJ improperly  
10 disregarded Dr. Strub's opinion regarding her physical and mental  
11 limitations. (Id.). The Court agrees.

12  
13 The opinions of treating physicians are entitled to special weight  
14 because the treating physician is hired to cure and has a better  
15 opportunity to know and observe the claimant as an individual.  
16 Magallanes v. Bowen, 881 F.2d 747, 751 (9th Cir. 1989). Where a  
17 treating physician's opinion is not contradicted by another doctor, it  
18 may be rejected only for "clear and convincing" reasons. Lester, 81  
19 F.3d at 830. Further, even where a treating physician's opinion is  
20 contradicted by another doctor, an ALJ may not reject the treating  
21 physician's opinion without providing specific, legitimate reasons,  
22 supported by substantial evidence in the record. Id.

23  
24 Here, because Dr. Strub's opinions are arguably contradicted by  
25 other doctors, the ALJ must provide "specific and legitimate reasons"  
26 to reject Dr. Strub's opinions. See Lester, 81 F.3d at 830. The ALJ  
27 found that Dr. Strub's diagnosis was inconsistent with those of Dr.

1 Ahmed, Dr. Moazzaz and Dr. Nafsoosi. (AR 23). However, at least as to  
2 Dr. Ahmed's findings, there was no substantive inconsistency. Dr. Strub  
3 referred Plaintiff to Dr. Ahmed for possible "early lupus or a collagen  
4 connective tissue disease." (AR 326). Dr. Ahmed ruled out "systemic  
5 lupus erythematosus at this time" and diagnosed Plaintiff with  
6 fibromyalgia, associated with irritable bowel syndrome, hypothyroidism,  
7 osteoarthritis of the first CMC joint and depression. (AR 327). In  
8 subsequent examinations, Dr. Strub consistently stated that Plaintiff  
9 presented with fibromyalgia, irritable bowel syndrome, hypothyroidism  
10 and depression. (AR 330, 379, 382, 385, 387, 390, 400, 403, 408). Dr.  
11 Ahmed's diagnosis does not conflict with Dr. Strub's assessment of  
12 Plaintiff's physical RFC.

13  
14 The ALJ was correct that Dr. Strub's conclusions about Plaintiff's  
15 work-related limitations differ from those of Dr. Moazzaz and Dr.  
16 Nafsoosi, but the ALJ erred in failing to provide specific and legitimate  
17 reasons to reject Dr. Strub's conclusions in favor of those of Dr.  
18 Moazzaz and Dr. Nafsoosi. Based on examinations of Plaintiff, Dr. Strub  
19 determined that pain and fatigue would prevent her from maintaining  
20 continuous employment in any job. (AR 324). Dr. Strub explained that  
21 Plaintiff could sit, stand or walk for no more than two hours in a  
22 eight-hour day. (AR 325). In contrast, Dr. Moazzaz concluded that  
23 Plaintiff could sit, stand and walk six hours out of an eight hour  
24 workday. (Id.). Dr. Nafsoosi also concluded that Plaintiff could sit  
25 for eight hours of an eight-hour day and stand and walk for six hours  
26 of an eight-hour day. (AR 51).

1 The Court notes, however, that Dr. Strub treated Plaintiff for two  
2 years, while Dr. Moazzaz conducted a single examination of Plaintiff and  
3 Dr. Nafosi did not examine Plaintiff at all. As Plaintiff's treating  
4 physician, Dr. Strub is presumed to be in a better position to assess  
5 Plaintiff's functional limitations. See Magallanes, 881 F.2d at 751.  
6 In order to overcome this presumption, the ALJ must provide specific and  
7 legitimate reasons to adopt Dr. Moazzaz and Dr. Nafosi's opinions over  
8 Dr. Strub's opinion. Lester, 81 F.3d at 830.

9  
10 Here, the ALJ did not provide a sufficiently specific or legitimate  
11 reason for her rejection of Dr. Strub's medical opinions. The ALJ found  
12 that "Dr. Strub's opinion on limitations appears to be based entirely  
13 on the claimant's subjective complaints and are unsupported by  
14 radiological studies or laboratory reports." (AR 23). However, a  
15 treating physician's diagnoses should not be discounted merely because  
16 they are based on the patient-plaintiff's subjective complaints. See  
17 Morgan v. Comm'r of Soc. Sec. Admin., 169 F.3d 595, 602 (9th Cir. 1999).  
18 Further, the ALJ erred in demanding objective evidence such as  
19 "radiological studies or laboratory reports" to demonstrate the severity  
20 of fibromyalgia. (See AR 23). As noted above, courts have recognized  
21 that fibromyalgia is a disabling impairment that lacks objective tests  
22 to conclusively confirm the disease. See e.g., Benecke v. Barnhart, 379  
23 F.3d 587, 594 (9th Cir. 2004) (holding that the ALJ erred by requiring  
24 objective evidence for a disease that eludes such measurement); Green-  
25 Young, 335 F.3d at 108. Accordingly, the absence of objective findings  
26 is not a legitimate ground to reject Dr. Strub's opinions.

1 The ALJ also erred in discounting Dr. Strub's medical opinions  
2 merely because his treatment notes allegedly failed to either indicate  
3 that Plaintiff had complained of disabling pain or was referred to a  
4 pain management specialist. (AR 23). This reason is contradicted by  
5 the record. Dr. Strub's treatment notes recorded Plaintiff's complaints  
6 of severe joint pain throughout the treatment period. (AR 282-86, 329-  
7 30, 364-65, 367-68, 370-71, 375-76, 378-79, 381-82, 384-85, 389-90, 399-  
8 400, 402-03, 407-08). Moreover, although Dr. Strub did not refer  
9 Plaintiff to a pain management specialist, Dr. Strub prescribed  
10 Plaintiff pain medication including Tramadol, Norco and Vicodin. (AR  
11 330, 379, 382, 385, 387, 390, 400, 403, 408). Dr. Strub's failure to  
12 refer Plaintiff to a pain management specialist was not a specific and  
13 legitimate reason to reject his opinions.

14  
15 In sum, because the ALJ failed to provide specific and legitimate  
16 reasons for rejecting the treating physician's opinions, the case must  
17 be remanded. Remand for further proceedings is appropriate where  
18 additional proceedings could remedy defects in the Commissioner's  
19 decision. See Harman v. Apfel, 211 F.3d 1172, 1179 (9th Cir. 2000);  
20 Kail v. Heckler, 722 F.2d 1496, 1497 (9th Cir. 1984).

21  
22 Here, if the treating physician's opinions as well as Plaintiff's  
23 testimony are fully credited, Plaintiff must be found disabled. But  
24 there is an outstanding issue of whether Plaintiff was disabled as early  
25 as June 1, 2007. As Dr. Nafosi pointed out at the hearing, although  
26 Plaintiff alleged disability beginning from June 1, 2007, Plaintiff did  
27 not seek treatment from Dr. Strub until November or December of 2008.  
28 (AR 52, 160, 296). Dr. Nafosi noted that there was no "medically

1 determinable severe condition" prior to January 1, 2009. (AR 52). Thus  
2 remand to the agency for additional investigation or explanation, to  
3 determine when Plaintiff's disability began, is more appropriate in this  
4 case.

5  
6 **VII.**

7 **CONCLUSION**

8  
9 Consistent with the foregoing, IT IS ORDERED that judgment be  
10 entered REVERSING the decision of the Commissioner and REMANDING this  
11 matter for further proceedings consistent with this decision. IT IS  
12 FURTHER ORDERED that the Clerk of the Court serve copies of this  
13 Order and the Judgment on counsel for both parties.

14  
15 DATED: August 30, 2012

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17  
18 /s/  
19 SUZANNE H. SEGAL  
20 UNITED STATES MAGISTRATE JUDGE  
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